ELEVENTH ANNUAL REPORT

Victims of Crime Act
R.S.P.E.I. 1988, Cap. V-3.1

April 1, 1999 - March 31, 2000

Prince Edward Island Office of the Attorney General
P. O. Box 2000, Charlottetown, PE C1A 7N8

102-04716/

September 20, 2000

TO: The Honourable Gilbert R. Clements
Lieutenant Governor
Province of Prince Edward Island

MAY IT PLEASE YOUR HONOUR:

I have the honour to submit the Eleventh Annual Report of the administration of the *Victims of Crime Act*, R.S.P.E.I. 1988, Cap. V-3.1 pursuant to section 36 of the *Act*.

I have the honour to be Sir your obedient servant.

Jeffrey E. Lantz
Attorney General

TABLE OF CONTENTS

TOPIC	PAGE
Part I	
Introduction.....	1
Part II	
Report of the Victim Services Advisory Committee	2
Part III	
Report of the Victim Services Program.....	6
Part IV	
Report of the Criminal Injuries Compensation Program.....	17
Part V	
Victim Assistance Fund.....	27

PART I INTRODUCTION

The *Victims of Crime Act*, R.S.P.E.I. 1988, Cap.V-3.1 was proclaimed in force September 30, 1989. Regulations and Orders under the *Act* also came into force on that date. Extensive amendments to the *Act* came into effect August 7, 1999. These amendments included the addition of principles (h) and (i) listed below

The Statement of Principles contained in Part I of the *Victims of Crime Act* sets out the following principles for the guidance of persons in providing justice for victims of crime:

(a) Victims should be treated with courtesy and compassion and with respect for their dignity, privacy, and convenience;

(b) Victims should receive prompt and fair financial redress for the harm they have suffered;

(c) Victims should be informed of and should have access to services including social, medical, legal, and mental health assistance;

(d) Victims should be informed about the progress of the investigation and prosecution of the offense, court procedures, the role of the victim in court proceedings, and the ultimate disposition of the proceedings;

(e) Victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the Court where consistent with criminal law and procedure;

(f) Victims and their families should be protected from intimidation, retaliation, and harassment;

(g) Victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities.

(h) Victims are entitled to prepare a victim impact statement and have it considered by the court at sentencing.

(i) Victims are entitled to be informed about the offender's status, including release dates, parole eligibility, and probation terms.

The other parts of the *Act* include Victim Services, Victim Assistance Fund, Criminal Injuries Compensation, and General.

PART II REPORT OF THE VICTIM SERVICES ADVISORY COMMITTEE

The Victim Services Advisory Committee is established under Part II of the *Victims of Crime Act*. Section 4, as amended effective August 7, 1999, states the Committee's mandate is as follows:

> 4.(1) The Committee shall
> (a) review existing laws, policies and procedures and recommend changes to benefit victims;
> (b) assist law enforcement agencies, social agencies and other organizations with the development of guidelines that promote the principles set out in this *Act* relating to their role in respect of victims;
> (c) assist with establishing and updating procedures for the handling of complaints by victims;
> (d) assist with the research, development and distribution of information pertaining to the needs, rights and concerns of victims;
> (e) provide opportunities for research, discussion, and resolution of issues of concern to victims; and
> (f) advise on other matters that the Minister may refer to the Committee for consideration.
> (2) In the performance of its functions the Committee shall be guided and shall promote the principles set out in section 2. [The Statement of Principles];
> (3) The Committee may make recommendations to the Minister relating to;
> (a) the development of policies and legislation respecting assistance to victims;
> (b) the provision of services, including criminal injuries compensation, to victims; and
> (c) any other matters that the Minister refers to the Committee for its recommendation.

The *Victims of Crime Act* also provides the following terms of reference for the Victim Services Advisory Committee:

> 5. The Committee shall make an annual report to the Minister on the activities of the Committee.
> 6 (1) The Committee shall consist of not less than nine and not more than fifteen members appointed by the Minister.
> (2) The Committee shall include representatives of Crown attorneys, court clerks, Probation Services, law enforcement agencies, the Law

Society of Prince Edward Island, community organizations and the general public.
(3) Committee members shall not receive remuneration for their services but may receive reimbursement from the Fund of reasonable expenses incurred on behalf of the Committee.
(4) The Minister shall provide executive, secretarial, and any other assistance the Minister considers necessary to enable the Committee to carry out its functions.
(5) Each member shall be appointed to the Committee for a term of not more than three years and may be appointed for a second term.

The principles which guide the work of the Victim Services Advisory Committee are those listed in Part I of this Annual Report.

Members of the Victim Services Advisory Committee as of March 31, 2000, and the organizations they represent are as follows:

Erin Campbell	P.E.I. Youth Council
Trish Cheverie	Law Society of Prince Edward Island
Chief Jamie Fox	Chiefs of Police Association
Barrie Grandy	Crown Attorneys
Jo-Anne Hargrove	Probation Services
Lorna Hutcheson	Rape and Sexual Assault Crisis Centre
Orlo Jones	Senior Citizens Federation of Prince Edward Island
Cpl. Albert Kerr	Charlottetown Police Department
Scott Miller	Survivors of Drinking and Driving
Agdas Missaghian	Newcomers to Canada Association
Lisa Murphy	Advisory Council on the Status of Women
Ellen Ridgeway	Transition House Association
Ann Sherman	Community Legal Information Association
Cpl. Richard Thibault	R.C.M.P. "L" Division
Judy Turpin	Court Clerks

During the 1999/2000 fiscal year, the Victim Services Advisory Committee met on June 25, September 17, December 10, and March 3. Rona Brown and Sgt. Keir MacQuarrie co-chaired the first two meetings. Jo-Anne Hargrove and Ann Sherman co-chaired the last two meetings of this fiscal year.

Discussion at the meetings of the Victim Services Advisory Committee during the 1999/2000 fiscal year frequently focussed on amendments to federal and provincial legislation.

Amendments to the *Victims of Family Violence Act*, Regulations, and forms which came into effect in April, 1999 were discussed at the meeting on June 25. Committee members reported that information sessions on the amendments had been held for the specially designated justices of the peace and for the police training teams. The extent of use of Emergency Protection Orders was discussed at several meetings. At the March 3 meeting, the Committee was informed that twenty-three Emergency Protection Orders were granted in the last calendar year. Ongoing efforts to obtain funding from the federal Department of Justice for a full evaluation of the *Victims of Family Violence Act* were also discussed.

Amendments to the *Victims of Crime Act* and Regulations came into effect August 7, 1999. The intent of these amendments was discussed at the June 25 and September 17 meetings of the Victim Services Advisory Committee. Amendments which affected the Committee included a change in members' terms from two years to three years and minor changes in the wording of the Committee's functions to reflect it's interest in legislation as well as policies and procedures. Other major amendments were intended to further simplify and speed up the process for criminal injuries compensation.

Amendments to the *Criminal Code* regarding Victims of Crime (Bill C-79) were discussed at all four meetings of the Victim Services Advisory Committee. It was noted that several of these amendments resulted from work by the Victim Services Advisory Committee and the Province of Prince Edward Island, specifically provisions regarding victim impact statements, the victim surcharge, and extension of the ban on publication of identity of victims and witnesses. The *Criminal Code* amendments came into effect December 1, 1999. Committee members were informed about progress in implementing the amendments on Prince Edward Island.

A highlight of the June 25 meeting of the Victim Services Advisory Committee was an extensive discussion with the then Attorney General, Hon. Wes MacAleer. Topics discussed included: the recent amendments to the *Victims of Crime Act* and the *Criminal Code*, gun control, the need for improvements in Family Legal Aid and more opportunities for mediation, better coordination of efforts among government agencies, impaired driving, screening policies for people working or volunteering with children. Considerable discussion focused on what more can be done to assist victims of family violence.

As a result of the above-noted discussion, a Family Violence Research Project was carried out with funding from the Attorney General and the R.C.M.P. A Steering Committee composed of the Victim Services Advisory Committee co-chairs, several members and resource persons was formed to oversee the project. Anne Nicholson was hired to conduct the research which consisted of a literature review and discussions with numerous criminal justice and community agency personnel. At the

March 3 Victim Services Advisory Committee meeting, Ms. Nicholson reported on the progress of the research and consulted with Committee Members on several topics, including Family Legal Aid, mediation, the needs of seniors who are victims of family violence and the importance of referring family violence offenders to Turning Point.

At the September 17 meeting, guest speakers Kathy Flanagan-Rochon and Jill Lightwood discussed the Healthy Child Development Strategy. Guest speaker at the December 10 meeting was Pat Caffapas from the Halifax Bureau, Criminal Intelligence Services Canada. Mr. Caffapas spoke on organized crime in Canada. The December 10 meeting was also attended by the new Deputy Minister, Ron MacMillan, who spoke about developments at the national level, including an update on the status of the proposed Youth Criminal Justice Act.

During the year, many information items were brought to the attention of the Victim Services Advisory Committee, including: updates and reports on various workshops and conferences; Supreme Court decisions regarding vicarious liability of institutions when children are in care; amendments to the *Criminal Records Act* regarding identifying sex offenders who may apply to work with children; amendments to the *Criminal Code* regarding impaired driving which increased mandatory minimum penalties and maximum penalties for some driving offences; distribution of the Annual Report of the P.E.I. Rape and Sexual Assault Crisis Centre; a report on Restorative Justice Week activities; discussion and distribution of Justice Canada's new Handbook for Police and Crown Prosecutors on Criminal Harassment; discussion of Justice Canada's consultation document on Child Victims and the Criminal Justice System and plans for a workshop on that topic; and discussion of a Resolution from the Uniform Law Conference recommending changes to the *Criminal Code* regarding domestic violence.

Respectfully submitted,

Jo-Anne Hargrove, Co-chair

Ann Sherman, Co-chair

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PART III REPORT OF THE VICTIM SERVICES PROGRAM

Victim Services has provided a criminal justice system-based service to victims of crime province-wide since April, 1989. The system-based approach was developed on Prince Edward Island and has been adopted by several other provinces/territories. The key attributes of a system-based Victim Services program are that it:

- operates within the criminal justice system, but independently from the police, Crown attorneys, or the courts;
- is client-centred;
- maintains close working relationships with criminal justice personnel and community agencies;
- assists victims of crime at all stages of the criminal justice process;
- uses an outreach approach.

Mandate:

Section 7 of the *Victims of Crime Act* (amended effective August 7, 1999) states that the purpose of Victim Services is:

a) to assist victims as needed throughout their contacts with the criminal justice system;
b) to help victims to access other needed services;
c) to receive applications for criminal injuries compensation and investigate claims on behalf of the Minister;
d) to assist with the preparation and filing of victim impact statements;
e) to assist justice personnel and community agencies in providing services to victims;
f) to promote the Statement of Principles set out in section 2.

Mission Statement:

Victim Services provides a client-centred service for victims of crime, ensuring respect for their dignity and privacy. Victim Services assists clients throughout their involvement with the criminal justice process.

Vision Statement:

Victims Services' vision is that:

- all victims of crime on Prince Edward Island who require assistance through the criminal justice process will be referred at the earliest opportunity to Victim Services; and
- the response of all criminal justice personnel will be guided by the Statement of Principles in the *Victims of Crime Act*.

Values:

The Statement of Principles in the *Victims of Crime Act* , listed in Part I of this Annual Report, provides the value base for Victim Services.

Goals:

Victim Services Goals are:

- to provide prompt, effective assistance to victims of crime, especially victims of crimes against the person, but not excluding any victim who needs assistance through the criminal justice process;
- to tailor the assistance provided to meet the needs of the particular client;
- to provide services to any victim of crime requiring assistance, regardless of their geographic location on Prince Edward Island;
- to investigate criminal injuries compensation claims and complete the case analysis for each claim as quickly as possible;
- by working collaboratively with the police and Crown attorneys, to ensure that all victims of crimes in which charges are laid are informed of their right to prepare and file a victim impact statement;
- to ensure that victims understand the implications of preparing and filing a victim impact statement and do so voluntarily;
- to promote the use of the *Victims of Family Violence Act* in appropriate cases.

Victim Services uses an outreach approach to inform victims about the available services, rather than leaving it to victims of crime to find out about the service at the time they need it. Most referrals to Victim Services come from municipal police and RCMP across the province and Victim Services staff follow up from the initial police response to victims of crime. In some cases, victims contact Victim Services prior to reporting to the police. Victim Services staff make ongoing efforts to inform police about the services available through Victim Services and to encourage early referrals.

Once a referral is received, Victim Services' staff contact victims at the earliest opportunity by telephone, if possible, or by letter enclosing a Victim Services brochure. In some cases, the first contact is in person, when the victim comes to the Victim Services' office or meets the worker at the police station. In 1999/2000, 494 victims were first contacted by telephone, 122 by letter, and in 38 cases, the first contact was in person.

Victim Services cases are categorized in the following classifications: general, sexual abuse, wife abuse, other family abuse, and commercial/institutional. The following table illustrates the total and percentage of each type of case opened in 1999/2000. The table also indicates the police agency involved with each case. In 1999/2000, 44 percent of Victim Services new cases involved general victims; 34 percent wife abuse victims; 11 percent sexual abuse victims; 9 percent other family abuse victims; and 2 percent commercial/institutional victims.

Submission for 1999/2000 Annual Report

TABLE I

VICTIM CASE CLASSIFICATION: NEW CASES 1999/2000

Police Jurisdiction	General	Sexual Abuse	Wife Abuse	Other Family Abuse	Commercial/ Institutional	TOTAL
Alberton RCMP	17	4	9	7	1	38
Borden PD	0	0	0	0	0	0
Ch'town PD	167	36	98	25	0	326
Ch'town RCMP	22	14	39	16	1	92
Kensington PD	0	0	4	0	1	5
Montague RCMP	20	0	15	2	0	37
S'side RCMP	13	6	22	3	2	46
S'side PD	44	8	28	1	3	84
Souris RCMP	4	3	8	5	0	20
Out of Province	1	2	1	0	2	6
GRAND TOTALS	**288**	**73**	**224**	**59**	**10**	**654**
PERCENTILE	**44**	**11**	**34**	**9**	**2**	**100**

The total of 654 new cases represents a decrease of 21 when compared with the 1999/2000 fiscal year. However, new cases from the Charlottetown Police Department increased from 281 in 1998/1999 to 326 in 1999/2000 and new cases from the Charlottetown RCMP increased from 72 to 92. New cases from all other police departments/detachments decreased. In addition to the 654 new cases, 382 cases from previous years continued to be active.

Assaults, including all levels of assault from common assault to aggravated assault, are by far the most frequent type of crime in Victim Services cases, representing 39 percent of the new cases in 1999/2000. The next most frequent types of crime for Victim Services cases were sexual assault (12%) and harassment (11%). In 1999/2000, threats (8%), break and enter (7%), thefts (7%), and damage to property (5%) were also frequent crimes in Victim Services new cases.

The victim and suspect or offender were known to each other in 448 of the 654 new cases. There was a family-type relationship in 289 of these cases. In family-type cases, the suspect or offender was most frequently an ex-common law husband (50 cases), a husband (46 cases) or common-law husband (42 cases). The most frequent non-familial relationship was general acquaintance (104 cases).

The proportion of Victim Services clients victimized by adult offenders compared with young offenders has been quite consistent over the years. In 1999/2000, in 91 percent of Victim Services cases, the offenders were adults.

Age ranges of Victim Services' new clients were as follows: under 12 years (3%); 12 - 20 years (18%); 21 - 40 years (35%); 41 - 60 years (12%); 61 years and over (2%); unknown/not recorded (30%). Seventy-eight percent of Victim Services' new clients were females.

Assistances provided to Victim Services' clients are summarized in the following table:

TABLE II

ASSISTANCE PROVIDED
1999/2000

Type of Assistance	Number of Times Provided
INFORMATION about	
• status of the investigation	141
• the criminal justice system	182
• available services	605
• court procedures	343
• court dates	488
• court status and disposition	386
• financial options	40
• corrections/offenders' status	138
EMOTIONAL SUPPORT	962
Short-term COUNSELLING	164
REFERRALS for legal, financial, or counselling assistance	103
Support through the COURT PROCESS	
• court orientation tour	65
• appointment with the Crown Attorney	92
• transportation to court/Crown Attorney	22
• accompaniment to court	108
Assistance with preparing VICTIM IMPACT STATEMENTS	157
Information about/assistance with CRIMINAL INJURIES COMPENSATION	282
WRITTEN MATERIALS (booklets, brochures, etc.)	98
OTHER (including assistance under the *Victims of Family Violence Act*)	44

An important objective of Victim Services system-based approach is to provide a seamless service by maintaining liaison with criminal justice and community agencies. Contacts by Victim Services staff on behalf of clients are summarized in the following table:

TABLE III

LIAISON WITH OTHER AGENCIES
1999/2000

Agency Contacted	Number of Contacts
Police	626
Crown Attorneys	462
Probation Services	136
Provincial Corrections	36
Federal Corrections	38
Other Government and Community Agencies	229

When concluding cases, Victim Services staff record the clients' reactions to the assistance provided. In 1999/2000, 285 victims were very positive, 280 were positive, and two were neutral. For cases involving family members, 82 were very positive and 38 were positive. No victims or family members were recorded as reacting negatively to Victim Services.

The level of service provided by Victim Services varies depending on the needs of the client. In 1999/2000, 25 percent of clients required a high level of assistance involving many hours of staff time, 35 percent a medium level of assistance and 34 percent a low level of assistance. In 5 percent of the cases, the victims did not respond to the letter sent by Victim Services informing them of the available services. Compared to the previous fiscal year, a higher percentage of clients required a high level of assistance in 1999/2000.

Since 1989, Victim Services has been designated by Lieutenant Governor in Council as the program responsible for the preparation and filing of victim impact statements. Victim impact statements outline the physical, emotional, and financial effects of the crime on the victim. After determination of guilt, the judge takes victim

impact statements into consideration when deciding on sentence. In 1999/2000, 187 victim impact statements were prepared and filed with the court, an increase of 30 over the previous fiscal year.

Under the *Victims of Crime Act*, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. Victim Services staff prepare a case analysis regarding each claim.

Since 1989, a lawyer within the Legal Services Division has been responsible for adjudicating claims and writing a report, including recommendations, to the Attorney General who makes decisions regarding claims. The Legal Services lawyer has many other responsibilities besides adjudicating compensation claims. Over the years, a backlog of claims gradually developed at the adjudication stage.

Amendments to the *Victims of Crime Act* and Regulations which came into effect August 7, 1999, were designed to speed up the adjudication process by providing that:

- claims under $1,000 can be decided upon by a person designated by the Attorney General without the necessity of writing a report (the adjudicator in Legal Services and the Provincial Manager of Victim Services are designated persons);
- adjudication of claims exceeding $1,000 can be done by either the adjudicator or the Provincial Manager (a report to the Attorney General is required for these claims);
- for claims resulting from the death of a victim, after deduction of funeral and other expenses, the maximum award is to be divided equally among all dependents (rather than pro-rating on a dependency basis as was previously the case).

It will take some time before the long-term effect of these changes becomes evident. Because of the amendments to the *Victims of Crime Act* and Regulations, extensive revisions were made to the Criminal Injuries Compensation sections of Victim Services Policy and Procedures Manual.

In the 1999/2000 fiscal year, 20 new compensation applications were filed, 54 were carried over from the previous year, and 42 decisions were made. 7 only six compensation files were carried forward to the next fiscal year. Fifteen fewer new compensation applications were filed in 1999/2000, compared to 1998/1999 when 35 new applications were filed. Twice as many decisions were made in 1999/2000, thus the backlog in compensation claims has been reduced to some extent.

Further information and statistics regarding criminal injuries compensation are contained in Part IV of the Annual Report.

The *Victims of Family Violence Act* came into effect in December, 1996. Prince Edward Island was the second jurisdiction in Canada to enact family violence legislation. Under this *Act*, Emergency Protection Orders are available 24 hours/day from designated justices of the peace. In non-emergency situations, longer-term Victim Assistance Orders are available by application to the Supreme Court.

Victim Services staff participate on the training teams of the *Victims of Family Violence Act* and assist with the ongoing monitoring and promotion of the use of the *Act*. Victim Services staff also provide Information Kits and make referrals for legal assistance for victims needing Victim Assistance Orders. Due to difficulties with obtaining timely legal assistance, very few applications for Victim Assistance Orders are being made.

In 1999/2000, 23 Emergency Protection Orders were granted under the *Victims of Family Violence Act*. This represents a slight decrease from 25 Emergency Protection Orders granted in 1998/1999. Emergency Protection Orders have decreased each year for the past several years.

Victim Services workers attended an information session for police training teams on amendments to the *Victims of Family Violence Act* and the Provincial Manager presented on the amendments to the training teams, justices of the peace, and new police officers.

In March, 1998, a Monitoring Study of the *Victims of Family Violence Act* was conducted by Brenda Bradford of Bradford & Associates. Since that time, the Provincial Manager and Ms. Bradford have been attempting to obtain funding from the Federal Department of Justice for a full evaluation of the *Act*.

Consistent with its goal of tailoring the assistance provided to meet the needs of the client, Victim Services underwent a Literacy Audit during the 1999/2000 fiscal year. Norman Finlayson of the P.E.I. Literacy Alliance assisted with this process. All information materials published by Victim Services were reviewed. Based on the advice provided by Mr. Finlayson, the Victim Services brochure and the Victim Impact Statement Information Sheet were revised. Other materials will be revised as time permits. In March, 2000 the Provincial Manager and the Secretary for the Charlottetown office attended a Plain Language Workshop. In his Report on the Literacy Audit, Mr. Finlayson's concluding comment is a Congratulatory note, "The staff at the Victim Services office appear dedicated to providing quality customer service, including service to people with literacy problems."

Consistent with government's French Language Policy, public information materials published by Victim Services have been translated into French. The Victim

Services brochure had been translated previously. Criminal Injuries Compensation Application Forms and the Victim Impact Statement Information Sheet and Interview Form have now all been translated, printed, and distributed.

Maintaining cooperative working relationships with other criminal justice and community agencies in order to coordinate case management and effect positive long-term change for victims of crime is an important part of Victim Services work. Victim Services workers participated on interagency committees on family violence in Eastern P.E.I. and East Prince, attending 13 meetings; and interagency committees on child sexual abuse in Southern Kings, Queens, East Prince, and West Prince, attending 13 meetings. The Victim Services worker for Eastern P.E.I. participated on the Board of Directors of Transition House Association. The Secretary for the Prince County office represented Victim Services on planning committees for Crime Prevention Week/Conference, attending 14 meetings.

The Provincial Manager participated on the Premier's Action Committee on Family Violence Prevention (4 meetings), the Administration Sub-committee for the Premier's Action Committee (7 meetings), the Provincial Child Sexual Abuse Advisory Committee (3 meetings), the Advisory Committee on Women and Addictions (3 meetings), and chaired the Coalition for Woman Abuse Policy and Protocol (5 meetings) and the Justice Working Group Sub-committee (3 meetings).

The Provincial Manager and Secretary provide executive and administrative assistance to the Victim Services Advisory Committee (VSAC) and sub-committees. The VSAC meets four times per year and the co-chairs and Provincial Manager meet regularly between meetings. A major project of the VSAC for the 1999/2000 fiscal year was the Family Violence and the Justice System Research Project conducted by Anne Nicholson. The Provincial Manager participated in five meetings of the Steering Committee and four regional focus groups with police officers.

The Provincial Manager continued to participate on the Federal/Provincial/Territorial Working Group on Victims of Crime. In January, 2000 the Provincial Manager was invited to a Study Group on Older Adults sponsored by the Law Commission of Canada in Toronto.

In April, 1999, Victim Services commemorated its 10th Anniversary of province-wide services to victims with an Open House at the Charlottetown office. Victim Services was featured in an Island Focus program on Cable 10 in February, 2000.

A series of *Criminal Code* amendments responding to concerns of victims of crime and victims advocacy groups came into effect December 1, 1999. The Provincial Manager assisted on the provincial implementation committee (10 meetings), drafted information sheets and other material, and participated on three panels at information

sessions on the amendments. The *Criminal Code* amendments resulted in the need for extensive revisions to Policy and Procedures for Victim Impact Statements. These were approved by the Deputy Minister effective November 26, 1999.

Victim Services staff gave nineteen presentations on Victim Services and other topics (e.g., family violence) to students and teachers; health, social services, and justice personnel; community groups; and police officers during the year. Victim Services staff also responded to numerous requests from other provinces and territories regarding Victim Services, the *Victims of Crime Act*, and the *Victims of Family Violence Act*.

Objectives for the 2000/2001 fiscal year include:

- decreasing the backlog of criminal injuries compensation claims;
- alleviating the excessively high caseload of the Charlottetown worker;
- increasing the secretarial position in the Prince County office to full-time to provide better accessibility for victims in that area of the province;
- continuing revisions for literacy levels and translation to French of Victim Services information materials, in particular the Criminal Injuries Compensation Information Sheet;
- obtaining funds for an evaluation of the *Victims of Family Violence Act;*
- finding ways to help victims exercise their limited rights and obtain legal assistance when needed;
- accessing website development assistance to put training materials on Victim Services and the *Victims of Family Violence Act* on-line, particularly for use by police officers.

Victim Services offices are located at 3 Queen Street in Charlottetown and 263 Harbour Drive in Summerside.

Personnel include:

Ellie Reddin, Provincial Manager
Jean Profit, Victim Services Worker, Western Region
Melody Lane Gay, Victim Services Worker, Eastern Region
Evelyn Marshall, Assistant Victim Services Worker, Charlottetown Area
Dianna Cudmore, Secretary, Charlottetown Office
Carol Gallant, Secretary (part-time) Summerside Office.

PART IV CRIMINAL INJURIES COMPENSATION PROGRAM

INTRODUCTION

Criminal injuries compensation is the payment of money from public funds to compensate victims of crimes for pain and suffering and expenses resulting from injury or death caused by certain crimes. Criminal injuries compensation is a fund of last resort, i.e., other means of compensation or reimbursement are to be sought first.

Authority for Prince Edward Island's Criminal Injuries Compensation Program is contained in Part IV of the *Victims of Crime Act*, which was proclaimed in force September 30, 1989. Amendments to Part IV which came into effect August 7, 1999 were designed to further simplify and speed up the process for assessing compensation claims.

The *Victims of Crime Act* is not retroactive; criminal injuries compensation can only be awarded in respect of an injury or death resulting from an act that occurred after September 30, 1989.

VALUES

Criminal injuries compensation is one means to take action on principle (b) from the Statement of Principles in the *Victims of Crime Act*, i.e., "Victims should receive prompt and fair financial redress for the harm they have suffered."

In some Canadian Provinces, criminal injuries compensation programs began in the 1970's. In 1974, the Law Reform Commission of Canada described the purpose of criminal injuries compensation, as follows:

> Restitution by offenders cannot deal with all cases in which there is a need to pay back the loss suffered by victims of crime. In some instances an offender may not be able or willing to pay restitution, or, having agreed to pay, may for various reasons be unable to pay all or part of the amount required. In another type of case, the offender will not be known or proceedings may not be undertaken because of lack of evidence. Accordingly, there is a need to consider a scheme of compensation from the state to supplement restitution from the offenders.
>
> Compensation for victims of crime can be a valuable tool in supporting the purposes of the criminal law. As suggested in the Commission's working paper, The General Principles of Sentencing and Dispositions, the Commission is of the view that one of the purposes of the criminal law is to protect core values. At the basis of any society is a shared trust, an

implicit understanding that certain values will be respected. Some of these values are thought to be so important that they are protected through various provisions of the criminal law. A violation of those values in some cases may not only be an injury to individual rights, but an injury as well to the feeling of trust in society generally. Thus, the law ought not only to show a concern for the victim's injury but also take concrete measures to restore the harm done to public trust and confidence. Public confidence and trust might also be reinforced by prompt police action or dispositions that demonstrate a serious concern for the wrong done. This concern, however, is directed against the offender. Compensation, on the other hand, is directed towards the victim and should not be lost sight of as another meaningful and visible demonstration of societal concern that criminal wrongs be righted.

SUMMARY OF THE LEGISLATION

In general, a claim for criminal injuries compensation may arise in the event of injury or death by an act that occurred in Prince Edward Island, and that injury or death must have directly resulted from the commission of a criminal offence prescribed in the Regulations under the *Victims of Crime Act*. The applicant need not be a resident of Prince Edward Island.

The Regulations were amended effective August 7, 1999, to add impaired driving and other driving offences resulting in physical injury or death to the list of compensable offences.

The term "injury" is specifically defined in the *Victims of Crime Act* to mean actual bodily harm, including emotional trauma or pregnancy resulting from sexual assault, and mental or nervous shock. If a person suffers only property damage as a result of a prescribed crime, he or she is not eligible for criminal injuries compensation. It is not necessary that anyone be prosecuted or convicted for the crime, but an award may be delayed pending the outcome of the criminal process. A determination of guilt is conclusive evidence that an offence has been committed.

The *Victims of Crime Act* also contains a "Good Samaritan" clause which provides that criminal injuries compensation may be awarded if the victim was assisting a police officer, or trying to stop or lawfully arrest someone committing or about to commit a crime. In the case of a Good Samaritan, the offence need not be included in the list prescribed by the Regulations of the *Victims of Crime Act*.

Eligible Applicants

The Attorney General may order criminal injuries compensation

1. To or for the benefit of the victim;
2. To any person, in respect of financial loss suffered by or expenses incurred by that person as the result of the death or injury of the victim;
3. To any one or more of the dependants of the victim.

Contributory Behavior/Unlawful Activity

If the victim is culpable in relation to the offence or at the time of the offence was engaged in unlawful activity, criminal injuries compensation may be reduced or denied. Any behaviour on the part of the victim that contributed to the injury or death must also be considered when the claim is being assessed.

Compensable Losses

Compensable losses include:

1. Reasonable expenses incurred or likely to be incurred as a result of the victim's injury or death;
2. Financial losses resulting from total, partial or temporary disability affecting the victim's capacity for work;
3. Financial loss to dependents resulting from the victim's death;
4. Pain and suffering;
5. Maintenance of a child born as a result of sexual assault;
6. Financial loss incurred in respect of grief or sorrow as a result of the victim's death; and
7. Other financial loss resulting from the victim's injury, and any other expense that, in the opinion of the Minister or, in the case of a small claim, in the opinion of a designated person, it was reasonable to incur.

Calculation of the Award

The *Victims of Crime Act* directs that, when assessing an award for compensation, a designated person shall be guided by previous compensation awards made under the *Act* and Regulations and may consider awards based on similar legislation in other Canadian jurisdictions.

Deductions must be made for amounts recovered from the person who caused the injury, and any benefits received as a result of the incident under any federal or provincial statute other than benefits under a pension plan (e.g. employment insurance

benefits, workers' compensation, social assistance payments, accident and disability insurance will be deducted, but Canada Pension Plan disability benefits **will not** be deducted). Benefits received as income replacement are not deducted from claims for pain and suffering.

Where a victim is injured as a result of a compensable crime, the designated person shall calculate the total loss and make deductions as noted above before applying the maximum limits.

Where a victim is killed as a result of a compensable crime, after deducting funeral or other expenses and after considering any contributory or unlawful behavior as outlined above, the designated person shall divide the maximum award equally among all dependants who apply for compensation.

Maximum Award

The maximum amount payable to ALL APPLICANTS in respect of the injury or death of one victim is $15,000. The maximum amount payable to ALL APPLICANTS in respect of one occurrence (that is, one incident resulting in injury or death to more than one victim) is $30,000. The award cannot exceed these limits.

Time Limit

An application for criminal injuries compensation must be made within one year of the date of the injury or death, but the Attorney General may extend the time in special circumstances.

Right of Appeal

The decision of the Attorney General on a criminal injuries compensation claim may be appealed to a judge of the Supreme Court, Trial Division, on any question of law. An appeal must be filed within thirty days of the Attorney General's decision.

Variation of an Award

An award may be varied within two years of the date of the Order upon the filing of an application for a variation by any interested person, or upon the Attorney General's own initiative. The applicant must provide all relevant documentation within one year of applying for the variation, or must state in writing why the documentation is not yet available.

Subrogation Rights

An applicant is required to notify the Attorney General of any civil action he or she initiates against the person who caused the injury or death.

Interim Compensation

Interim compensation may be paid to an applicant in respect of financial expenses related to the victim's injury if

1. the applicant is in immediate financial need, and
2. it appears to the Attorney General or designated person that a criminal injuries compensation award will probably be granted.

PROCEDURE

An applicant need not retain the services of a lawyer to make a criminal injuries compensation claim.

Victim Services staff are available to assist with completion of the application form. Once the application form is completed, Victim Services staff conduct an investigation and gather all relevant documentation. Victim Services staff then write a Case Analysis and forward it to the Provincial Manager of Victim Services.

The Provincial Manager and a lawyer in the Legal Services Division, Office of the Attorney General, are "designated persons" responsible for determining eligibility and assessing the amount of awards.

For claims larger than $1,000, the designated person writes a report to the Attorney General with recommendations regarding eligibility and amount. The Attorney General then makes the decisions regarding these claims.

For small claims (i.e., claims up to $1,000) and for interim claims up to $1,000, the designated person can act on behalf of the Attorney General and make, or decline to make, an order.

VOLUME OF APPLICATIONS

During the fiscal year 1999/2000, twenty new applications for criminal injuries compensation were filed. Sixty-four applications were carried over from the previous year.

Forty-final decisions and two interim decisions were made in 1999/2000. Two claims were denied, five were reduced and thirty-five full awards were granted. Twice as many decisions were made in 1999/2000 than were made in 1998/1999.

The following statistical tables summarize the criminal injuries compensation program during 1999/2000.

TABLE II

Applications - Statistical Summary
April 1, 1999 - March 31, 2000

New applications filed	20
Applications carried over from last year	64
Variation applications	0
Appeals	0
TOTAL	84
Decisions made:	42
award denied	2
full award granted	32
interim award	2
reduced award	5
variation	1
Withdrawn applications	1
Files carried forward to 2000/2001	40

TABLE III

Categories of Victims
(Based on Compensation Awarded)
April 1, 1999 - March 31, 2000

TYPES OF VICTIMS	NUMBER
General	13
Other family abuse	5
Sexual abuse	16
Wife abuse	6
TOTAL	40

TABLE IV

Crimes Involved in Final Awards Granted from
April 1, 1999 - March 31, 2000

CRIMINAL CODE SECTION	NUMBER OF AWARDS
151 (sexual interference)	5
265 (assault)	12
267 (assault with weapon/causing bodily harm)	6
268 (aggravated assault)	2
271 (sexual assault)	10
TOTAL	37

TABLE V

Reasons for Reduced and/or Denied Awards
April 1, 1999 - March 31, 2000

REASON	REDUCED	DENIED
Victim culpability/ contributory behaviour	5	2

TABLE VI

Location of Offences
(New Applications and Variation Applications)
April 1, 1999 - March 31, 2000

POLICE JURISDICTION	# OF OFFENCES
Alberton RCMP	2
Charlottetown City Police	14
Charlottetown R.C.M.P.	1
Summerside RCMP	2
Summerside City Police	1
TOTAL	20

TABLE VII

Compensation Awarded*

April 1, 1999 – March 31, 2000

Pain and suffering	$ 119,016
Expenses	12,875
TOTAL AWARDED	$ 131,891

*NOTE: Compensation awarded in one fiscal year may be paid out in a different fiscal year, e.g., for dental expenses.

TABLE VIII

Age and Gender of Victims
(Based on Compensation Awarded)
April 1, 1999 - March 31, 2000

AGE	# OF VICTIMS
1-10	4
11-20	13
21-30	5
31-40	8
41-50	3
51-60	2
61-70	1
71+	4
TOTAL	40

GENDER	
Female	23
Male	17
TOTAL	40

PART V VICTIM ASSISTANCE FUND

Victim Services

Summary of Revenue and Expenditures

	Budgeted Amount	ACTUAL Year ended March 31, 2000
Revenue		
Victim Surcharge		
- federal offences	34,000	21,265
- provincial offences	140,000	93,332
Donations	0	0
Community Service Work option	0	0
Restitution/civil suit reimbursement	0	92
TOTAL REVENUE	174,000	114,689
Expenditures		
Administration	7,800	9,282
Equipment	800	3,870
Materials/supplies	1,300	1,452
Salaries/benefits	261,900	243,427
Travel	12,000	14,644
Criminal Injuries Compensation	100,000	80,053
TOTAL EXPENDITURES	383,800	352,688

NOTE: Some revenue collected during the 99/00 fiscal year was not transferred from the courts to Victim Services until after the fiscal year end because of computer problems. This revenue will be included in the 2000/2001 accounts.

ACCOUNTING PROCEDURES

All revenues and expenditures related to Victim Services are recorded in the accounts of the Province and included in the Public Accounts.